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FILED

MAY 23 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JASON KEITH SMITH,

Defendant.

No. CR 5:13-MJ-70031 HRL

STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING APPEARANCE
DATE AND EXCLUDING TIME FROM
THE SPEEDY TRIAL ACT
CALCULATION (18 U.S.C.
§ 3161(h)(8)(A))

This matter is scheduled before the Court for an preliminary hearing or arraignment on May 23, 2013. On January 14, 2013, this Court issued a criminal complaint against the defendant related to a violation of 18 U.S.C. 875(c) - Interstate Communications of a Threat. The defendant, who resides in the Eastern District of Michigan, was arrested and made an initial appearance on January 22, 2013 in Detroit before United States Eastern District of Michigan Magistrate Judge Laurie J. Michelson. The defendant is currently represented by Northern District of California Assistant Federal Public Defender Diana Garrido and Eastern District of Michigan Assistant Federal Public Defenders Penny R. Beardslee and Loren E. Khogali. On January 23, 2013, Judge Michelson ordered the defendant released pursuant to conditions, STIPULATION AND [PROPOSED] ORDER CR 5:13-MJ-70031 HRL

1 ordered the defendant be transferred to the Northern District of California for further
2 proceedings, excluded time, and ordered the defendant to appear in the Northern District of
3 California on March 14, 2013 at 9 a.m. That initial appearance date was subsequently continued
4 via the parties stipulation to May 23, 2013.

5 The United States and the defendant now request a continuance until July 25, 2013 in
6 order to afford defense counsel additional time to effectively prepare and also to allow the parties
7 an opportunity to discuss a potential pre-indictment resolution of the matter. The parties agree,
8 and the Court finds and holds, as follows:

9 1. The preliminary hearing or arraignment is continued to July 25, 2013.

10 2. Time should be excluded under Rule 5.1 from May 23, 2013 to July 25, 2013 in
11 order to allow defense counsel additional time to effectively prepare and also to allow the parties
12 an opportunity to discuss a potential pre-indictment resolution of the matter. The parties agree
13 that the continuance is proper under Rule 5.1 of the Federal Rules of Criminal Procedure and 18
14 U.S.C. § 3060.

15 3. The time between May 23, 2013 to July 25, 2013 is excluded under the Speedy
16 Trial Act. The parties agree that the failure to grant the requested continuance would
17 unreasonably deny defense counsel reasonable time necessary for effective preparation, taking
18 into account the exercise of due diligence. Finally, the parties agree that the ends of justice
19 served by granting the requested continuance outweigh the best interest of the public and the
20 defendant in a speedy trial and in the prompt disposition of criminal cases. 18 U.S.C. §

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1 3161(h)(8)(A).

2 STIPULATED:

3 DATED: 5/22/13

/s/

DIANA GARRIDO
PENNY R. BEARDSLEE
LOREN E. KHOGALI
Assistant Federal Public Defenders
for Defendant Smith

7 DATED: 5/22/13

/s/

JOSEPH FAZIOLI
Assistant United States Attorney

9 IT IS SO ORDERED.

10 DATED: 5/23/13

HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE